

FC7HMAGS

Sentence

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

10 CR 007 (CM)

10 CR 1170 (CM)

5 ANTHOY MANGONE,

6 Defendant.

7 -----x

8 New York, N.Y.

9 December 7, 2015

10:00 a.m.

10 Before:

11 HON. COLLEEN MCMAHON,

12 District Judge

13 APPEARANCES

14 PREET BHARARA

15 United States Attorney for the

16 Southern District of New York

17 PERRY A. CARBONE

JAY McMAHON

Assistant United States Attorneys

18 DOAR RIECK KALEY & MACK

19 Attorneys for Defendant

20 JAMES R. DeVITA

21 ALSO PRESENT: MICHAEL MAZZUCA, FBI agent

ROBERT SILVERI, FBI agent

JOHN SCATENATTO, IRS agent John Scatenatto.

22 DELEASSA PENLAND, DOJ Investigator

FC7HMAGS

Sentence

1 (Case called)

2 MR. CARBONE: Your Honor, on behalf of the government,
3 Assistant United States Attorneys Perry Carbone, Jay McMahon.
4 Sitting with us at counsel table are FBI special agents Michael
5 Mazzuca, Robert Silveri, IRS special agent John Scatenatto, and
6 former IRS revenue agent and U.S. Attorney's Office
7 Investigator Deleassa Penland. And seated outside the well
8 today is former Assistant United States Attorney Jason Halpern.

9 THE COURT: Good morning.

10 MR. DeVITA: Good morning, your Honor. For
11 Mr. Mangone, James DeVita with the firm of Doar Rieck Kaley &
12 Mack.

13 THE COURT: Good morning. You may be seated.

14 Going to have to hold off for a second, folks. I
15 can't do anything without the presentence report, and I don't
16 have the presentence report.

17 MR. DeVITA: If it would help, your Honor, I could
18 hand up my copy.

19 THE COURT: If anybody can hand up a copy, it would be
20 great. Thank you.

21 This matter is on for sentencing under docket Nos. 10
22 Criminal 007 and 10 Criminal 1170, United States of America v.
23 Anthony Mangone, the defendant having been found guilty by plea
24 to the following offenses under docket No. 10 Criminal 007:

25 One count of conspiracy to commit bribery, a Class D

FC7HMAGS

Sentence

1 felony in violation of 18 United States Code, Section 371.

2 This crime carries a statutory maximum penalty of five years'
3 imprisonment, three years' supervised release, a \$250,000 fine
4 or twice the gross gain to the defendant or loss to
5 identifiable victims other than the defendant, and a \$100
6 special assessment.

7 One count of aiding the receipt of corrupt payments, a
8 Class C felony in violation of 18 United States Code, Section
9 666(b)(1)(B). This crime carries a statutory maximum sentence
10 of ten years' imprisonment, three years' supervised release, a
11 \$250,000 fine, and a \$100 special assessment.

12 One count of extortion -- you got it? Good. You can
13 give Mr. Carbone back his.

14 One count of extortion, a Class C felony in violation
15 of 18 United States Code, Section 1951(a). This crime carries
16 a statutory maximum of 20 years' imprisonment, three years'
17 supervised release, maximum fine of \$250,000 or twice the gross
18 gain or loss, and a \$100 special assessment.

19 One count of travel act bribery, a Class D felony, in
20 violation of 18 United States Code, Section 1952(a)(3). This
21 crime carries a statutory maximum sentence of not more than
22 five years' imprisonment, three years' supervised release,
23 \$250,000 or twice the gross gain or loss fine, and a \$100
24 special assessment.

25 In connection with docket No. 10 Criminal 1170, the

FC7HMAGS

Sentence

1 defendant has pleaded guilty to one count of tax evasion, a
2 Class D felony in violation of 26 United States Code,
3 Section 7201. This crime carries a statutory maximum penalty
4 of five years' imprisonment, three years' supervised release, a
5 \$100,000 fine, and a \$100 special assessment.

6 In connection with today's proceedings, I have
7 received and reviewed the presentence report prepared by United
8 States Probation Officer Walter J. Quinn. It is dated
9 November 23, 2015. I have a sentencing memorandum and notice
10 of intent to move pursuant to Section 5K1.1 of the sentencing
11 guidelines from the United States Attorney's Office. I have a
12 sentencing memorandum submitted by Mr. DeVita on behalf of
13 Mr. Mangone, together with 109 pages of exhibits, consisting of
14 a large number of letters submitted by family and friends of
15 the defendant on his behalf.

16 I have received two supplemental submissions from
17 Mr. DeVita, one dated November 24, 2015, with a supplemental
18 sentencing memorandum with a few more letters from friends,
19 relatively new friends, people who have known Mr. Mangone for
20 about the last three years since he began cooperating in this
21 case, and a second supplemental sentencing memorandum
22 containing a letter from a Mr. Egan.

23 I received a letter in October from a Judith Nolan. I
24 don't know, Mr. DeVita. I can't remember if it's a friend, and
25 it was in the file. And I received a letter that I sent to

FC7HMAGS

Sentence

1 counsel last week.

2 THE DEPUTY CLERK: To which Mr. DeVita -- I didn't see
3 this -- asked you to look at that.

4 THE COURT: And I received a letter last Friday which
5 I sent to the lawyers for both sides. It was an unsolicited
6 letter from an individual resident of Putnam County named
7 Barbara Burhans who was a civil litigant in the White Plains
8 courthouse, and she obviously has an ax to grind. She also
9 says some very profound things. We looked at the docket sheet
10 in her case. Mr. DeVita has handed up one particular order
11 that he wants me to look at which the order that Judge Robinson
12 entered when he declined to recuse himself from the case.

13 MR. DeVITA: Correct, your Honor.

14 THE COURT: Okay. Is there anything else I should
15 receive in writing prior to today's proceedings from the
16 government?

17 MR. CARBONE: Not that we're aware of, your Honor.

18 THE COURT: From the defendant?

19 MR. DeVITA: No, your Honor.

20 THE COURT: Has the government reviewed the
21 presentence report?

22 MR. CARBONE: Yes, we have, your Honor.

23 THE COURT: Any additions, deletions, or corrections?

24 MR. CARBONE: None.

25 THE COURT: Does the government presently make the

FC7HMAGS

Sentence

1 motion contemplated by its submission?

2 MR. CARBONE: Yes, your Honor. At this time the
3 government moves for a downward departure from the applicable
4 guideline range based upon the extraordinary, substantial
5 assistance that the defendant provided in connection with the
6 successful prosecution of seven individuals. As outlined in
7 our brief, the cooperation provided by Mr. Mangone was
8 complete, it was fruitful, and it spanned over five years.

9 Your Honor, I'll just briefly address his cooperation
10 in light of the five non-exhaustive factors set forth in
11 Section 5K1.1. First, the usefulness of the defendant's
12 cooperation. Judge, I think the defendant's cooperation was
13 remarkably useful, primarily because of the nature of the
14 crimes that he assisted the government to prosecute. When you
15 arrest someone driving a truckload of cocaine after there have
16 been wiretaps and some undercover buys, there's really little
17 doubt about the defendant's guilt, and there's powerful
18 incentive for that individual to cooperate. Corruption and
19 fraud cases, as your Honor is aware, obviously much, much
20 different. It's usually less about what happened and more
21 about the defendant's mens rea, his mental state, because the
22 government has to prove corrupt or fraudulent intent.

23 As your Honor's also aware, these cases, in large
24 part, involve transactions that are conducted based on a nod
25 and a wink. And it's very, very difficult for the government

FC7HMAGS

Sentence

1 to have narrators or people who are involved in the
2 transactions cooperate. So having a narrator, someone like
3 Mr. Mangone, who can walk you through the schemes is both
4 unusual and extraordinary. So it was very, very useful.

5 Factor two, the truthfulness, completeness, and
6 reliability of the information provided. Judge, in the
7 government's view, Mr. Mangone's cooperation was certainly
8 truthful and it was certainly complete. From the very
9 beginning of this case and throughout the entire period of his
10 cooperation, we never had reason to doubt the truthfulness of
11 anything Mr. Mangone told us. And I'd point out that he told
12 us a lot of things that were personally very embarrassing to
13 him, things that it is unlikely that we ever would have
14 discovered but for him bringing them to our attention. And I
15 think that demonstrates how forthright and completely truthful
16 he was.

17 THE COURT: Mr. Carbone --

18 MR. CARBONE: Yes.

19 THE COURT: -- I've been told -- never worked for your
20 office -- I've been told it's the policy of your office to
21 charge a cooperator with all of the crimes that he reveals that
22 he's committed. That doesn't seem to be the case in
23 Mr. Mangone's case. Is there an explanation for that?

24 MR. CARBONE: Judge, I think it is the case to the
25 extent that there were federal violations. And I think if you

FC7HMAGS

Sentence

1 look at the plea agreement, to the extent that Mr. Mangone
2 committed other crimes that may have been violations of --

3 THE COURT: The crimes with Mr. Libous, the crimes
4 with Mr. Leibell, he didn't commit any federal crimes in
5 connection with those?

6 MR. CARBONE: Judge, he certainly.

7 THE COURT: Really?

8 MR. CARBONE: Our position --

9 THE COURT: Really? Conspiracy? You guys charge
10 conspiracy for everything. You guys charge conspiracy if two
11 people are walking down the street together.

12 MR. CARBONE: I think that might be a minor
13 overstatement.

14 THE COURT: It's a bit of an overstatement,
15 Mr. Carbone. I'll grant you that.

16 MR. CARBONE: Judge, in our view, it all comes down to
17 intent. You have to have somebody -- in order to make them
18 plead guilty to a crime, they have to have had --

19 THE COURT: You don't think he intended to steal the
20 money from Putnam County? I'm just curious. I'll lay my cards
21 on the table, Mr. Carbone. This is an extraordinary,
22 extraordinary plea deal. I've never seen a plea deal like this
23 from your office. And you and I have done a lot of these plea
24 deals together. And I have simply never seen a plea deal where
25 the guideline sentence was so absurdly low. Haven't seen it.

FC7HMAGS

Sentence

1 MR. CARBONE: Judge, the plea agreement is clear. It
2 lays out all the bad conduct that we were aware of. And your
3 Honor's entitled and permitted to take all that into
4 consideration. It is the policy of our office, Judge, that we
5 don't go back and try to calculate a guideline for everything
6 bad that a defendant did during his entire life. It's out
7 there. It's all laid out for you to see. Your Honor presided
8 over the trial. It's in the plea agreement. You know about
9 all the bad conduct, and you can consider it. Nobody's
10 suggesting that you shouldn't.

11 This is not a lenient plea deal. He pled to each and
12 every count in indictment No. 007 for which he was charged,
13 with the exception of the currency transaction reporting count
14 which he denied willfulness, and we had no evidence -- we
15 credited his lack of willfulness on that count. So we agreed
16 to dismiss it. It has no effect on the guidelines. As for the
17 tax charge, your Honor, we investigated Mr. Mangone. We
18 investigated our own cooperator, and he pled guilty to tax
19 evasion, a multiple-year tax evasion scheme. So I don't think
20 this is a lenient plea deal.

21 THE COURT: Has he repaid any of the taxes?

22 MR. CARBONE: He has filed his returns and --

23 THE COURT: Has he paid any of the taxes?

24 MR. CARBONE: Your Honor, Mr. DeVita can address
25 whether he's in a financial position --

FC7HMAGS

Sentence

1 THE COURT: The answer is no. Okay. It was a
2 yes-or-no question, Mr. Carbone.

3 MR. CARBONE: And the answer is not that I'm aware of.

4 THE COURT: Thank you.

5 MR. CARBONE: The nature and extent of the assistance
6 provided. Judge, over the course of over five years,
7 Mr. Mangone provided information, as I said, that resulted in
8 the successful prosecution of seven individuals: three New York
9 state senators, a chief of staff, a lawyer, a councilwoman, and
10 a chairman of the Yonkers republican party. He testified
11 twice, underwent vigorous cross-examination in both of those
12 cases, and he met and he spoke with the government more times
13 than we can count. He made himself available anytime we asked.

14 Fourth factor, injury to the defendant or his family
15 as a result of the efforts. Now, this is not a case where the
16 defendant was at personal physical risk of harm, nor his
17 family. It's not a drug case, not an organized crime case.

18 THE COURT: It's worse.

19 MR. CARBONE: But I think --

20 THE COURT: It's worse. It's a political corruption
21 case.

22 MR. CARBONE: And in that we don't disagree, your
23 Honor.

24 THE COURT: Good.

25 MR. CARBONE: But as to this factor, I think it's fair

FC7HMAGS

Sentence

1 to consider injury to the defendant's family. And bear with me
2 for a second. You may not have any --

3 THE COURT: I've never had you argue that in a drug
4 case, Mr. Carbone. That's odd. I've never had you argue that
5 in an organized crime case. I've always had you say: You
6 know, that's collateral damage. That's just the way it works.

7 MR. CARBONE: It is, your Honor.

8 THE COURT: The defendant should have thought about
9 his family before he committed the crime.

10 MR. CARBONE: I don't disagree, Judge. But my only
11 point is that Mr. Mangone's family, his wife and his young
12 children, didn't commit the crimes; and they certainly -- and I
13 think it's fair, under the guidelines, to ask the Court to
14 consider the way these cases were rolled out, seven cases over
15 the course of five years rolled out. Each time there was a
16 significant development in those cases, there's another round
17 of media stories. And I'm not suggesting in any way that the
18 media treated anyone unfairly here. But I am suggesting that
19 Mr. Mangone's family, his wife, his children, know what the
20 Internet is, and they were subjected to the humiliation each
21 and every time that a new case is rolled out. And it's a
22 factor, that's all, under the guidelines.

23 Finally, your Honor, the timeliness of the assistance.
24 Within weeks, weeks of the return of the initial Annabi
25 indictment, which was in January of 2005 --

FC7HMAGS

Sentence

1 THE COURT: '10, 2010.

2 MR. CARBONE: That's what I meant, '10.

3 -- Mr. Mangone, reached out to us and expressed his
4 desire to cooperate, his desire to make it right. It wasn't a
5 long, drawn-out process. He came in immediately, repeatedly.
6 And it took a few sessions to draw out all the information that
7 he had to provide to the government, but he did it. He
8 immediately came in, and he gave complete and truthful
9 proffers. So his cooperation was extraordinarily timely.

10 So, your Honor, in sum, we ask that the Court credit
11 Mr. Mangone for his extraordinary assistance that he provided
12 in this case and reward him consistent with those efforts.
13 Thank you.

14 THE COURT: Thank you, Mr. Carbone.

15 Mr. DeVita, good morning.

16 MR. DeVITA: Good morning, your Honor.

17 THE COURT: Have you gone over the presentence report
18 with your client?

19 MR. DeVITA: I have, your Honor.

20 THE COURT: Any additions, deletions, or corrections
21 that you would like to make to the presentence report?

22 MR. DeVITA: No, your Honor.

23 THE COURT: Okay. Mr. DeVita, I would hear you on
24 sentencing.

25 MR. DeVITA: Your Honor, I would like to address,

FC7HMAGS

Sentence

1 first, your observation that this was a lenient plea. Your
2 Honor mentioned the policy that, frankly, is a policy that I
3 disagree with. It was not a policy --

4 THE COURT: So do I, but it is the policy. I've been
5 told that over and over again.

6 MR. DeVITA: I understand. I think it is a policy
7 that has no point, because there is nothing that has been
8 concealed from the Court about his misconduct. There is
9 nothing that your Honor's not aware of, that the government is
10 not aware of. And the sentencing exposure to what he has pled
11 guilty to is sufficient that, if your Honor deems it
12 appropriate, you can go very high; and, therefore, I think that
13 the fact that the plea may not include things that -- and I
14 will mention your Honor brought up specifically the Putnam
15 County situation. None of the other partners of his firm were
16 prosecuted for that situation. His role in that -- I'm not
17 excusing it -- but was, compared to the others, rather minor.
18 He was a junior partner in the firm. He was not directly
19 involved. He shared --

20 THE COURT: Junior partner? Mr. DeVita, it was a
21 three-lawyer firm. Come on. Give me a break.

22 MR. DeVITA: I understand that, your Honor. I'm
23 simply saying he's not being singled out for special treatment
24 regarding that. There are other issues that the government,
25 frankly, looked at carefully in terms of the pressure that was

FC7HMAGS

Sentence

1 put on the firm. And I don't mean to excuse any of that. I'm
2 simply saying that I don't think that it really makes a
3 difference in this case that he didn't plead guilty to that
4 when your Honor knows from his own testimony, from his own
5 words, that that conduct occurred that nobody knew about until
6 he told the government.

7 THE COURT: It makes two differences. First of all,
8 there really can be no dispute that this is not the kind of
9 plea deal that the government ordinarily gives; and, second --
10 maybe that's because of the government's great zeal to get
11 political corruption witnesses. I don't know, because the
12 government gets to make its own deals. But the second is if he
13 had to do something more like the kind of deals that you and I
14 all too frequently see and that neither one of us likes, his
15 guidelines would be a lot higher and that, in turn, would mean
16 that a break from the guidelines would be easier to give, so to
17 speak. Okay. So there's no doubt in my mind that it was done
18 to try to control what was going to happen here today.

19 MR. DeVITA: Your Honor, I think you don't give enough
20 credit to the government for realizing they can't control your
21 Honor any more than I can control your Honor. Your Honor makes
22 your own decisions. Your Honor has all of the facts. And I
23 don't attribute that motive to the government. I really don't.
24 I think that one of the things -- and I will say I've been
25 doing this a long time, and I don't say lightly that there are

FC7HMAGS

Sentence

1 unique features to cases, because I've seen a lot and I've done
2 a lot. In this case, I think one of the things that motivated
3 the government was the uniqueness in the way that this
4 cooperation came out and unfolded. It was spontaneous. There
5 were sessions, upon hours hours of confession, nothing less.
6 It was remarkable to see and participate in. It was
7 spontaneous. There was no attempt at self-justification.
8 There was no attempt at rationalization. I think, no question,
9 that the arrest triggered that, but there's no question in my
10 mind that sooner or later that would have happened. And I
11 think that it's more likely a recognition of the enormous
12 unburdening and purging that he went through in this process
13 than it is to try and shackle your Honor.

14 There's nothing here that prevents your Honor from
15 doing what your Honor sees fit. I don't think that you're
16 being fair to Mr. Carbone, frankly, by saying that he's trying
17 to control the outcome, because the information is there. Your
18 Honor knows it. He's testified to it in open court twice.
19 There are no secrets here. No one's hiding the ball from your
20 Honor. I think that Mr. Carbone sat through sessions that I
21 sat through that were, in my experience, remarkable and unique.
22 And it was hours on end, multiple sessions. He started in
23 March; it ended with a cooperation agreement that was signed in
24 November. And there were hours upon hours when he sat and
25 unburdened himself, laid out information that the government

FC7HMAGS

Sentence

1 had no clue, may never have found out but for his cooperation.
2 So I think that that is more likely an explanation of the way
3 the case was pled than any attempt to try and shackle your
4 Honor, because there is no way to do that. There really isn't.

5 The other aspect of this case, your Honor, that was
6 unique, in my experience, is the amazing outpouring of letters,
7 many unsolicited. As I say, I've been doing this a long time,
8 I've never seen a flood of -- and not puff letters, Judge.
9 Information that was specific about very generous, kind,
10 amazing things that Mr. Mangone has done through his life. As
11 I said in my sentencing memo, I'm not condoning anything that
12 he did or denying anything that he did that it was wrong, but
13 there's a fundamental goodness and decency that -- I've known
14 him for five years. Until I read those letters, I didn't
15 really know him. Frankly, I couldn't help thinking of one of
16 my favorite movies, "It's a Wonderful Life," when I was reading
17 those letters. It just brought home to me a side of him that I
18 hadn't seen. I believed that he was a good man. I believed
19 that he had unburdened himself, but to see what he's done and
20 what he's been through, I think I've never had an experience
21 like that in my 40-plus years of practicing law to see the kind
22 of outpouring for a man in his position that I saw in this
23 case. So those are the unique factors.

24 Other factors, your Honor, his family needs him. His
25 family really needs him. His son needs him. I don't want to

FC7HMAGS

Sentence

1 go into detail on that. It's in the submission. But it's
2 important. I think that in the five and a half years that have
3 passed since he was arrested, he's made a rehabilitation that
4 is to be lauded and to be, I think, fostered rather than
5 defeated.

6 And I think that the family business, the
7 restaurant -- his mother's here -- the restaurant that they've
8 started, I was really impressed with the words of the police
9 chief from Irvington who says it's a family institution in the
10 community. And it's something that is a credit to him to have.
11 He's the moving force behind it; and he's, I think, essential
12 to it. And I think that it's essential to his ability to be
13 rehabilitated. I think that there is a real risk that the
14 family business would not be able to survive his being
15 incarcerated, and I think that would be a step in the wrong
16 direction for him to become and continue to be moving in the
17 path of a contributing member of our society.

18 I think that -- and Mr. Carbone has touched on this --
19 he has been punished. He testified in two trials, three years
20 apart, with as a substantial amount of publicity each time
21 reopening the wounds. That, I think, is as your Honor said,
22 you know, he should have thought of that before. But I can
23 tell you this: There isn't a day that has gone by that he
24 hasn't said that to himself, that he put his family in this
25 situation; that he put his family through this. He knows that,

FC7HMAGS

Sentence

1 and I think that he beats himself up about that every day. And
2 he suffers from that as well, and that's not -- I mean, your
3 Honor sees people who come here before you who profess remorse,
4 but it's not as profound as the remorse that is here; and
5 sometimes it's a sham. This man is as remorseful as any
6 defendant that has ever stood before your Honor, I believe.

7 THE COURT: Really?

8 MR. DeVITA: I think that those are things that really
9 weigh in favor of a sentence that does not put Mr. Mangone into
10 jail, into prison. I don't think it serves any useful purpose.
11 I think that the example that he has set since his arrest and
12 his spontaneous decision to cooperate has helped this U.S.
13 Attorney's Office in what has been a very successful campaign
14 against corruption in state government and local government. I
15 think that it's fair to say he's a trailblazer in that respect.
16 And that by rewarding him sufficiently for coming forward and
17 for exposing what he has exposed, your Honor will continue to
18 encourage people in his position to come forward and not
19 discourage the kind of cooperation that has resulted in the
20 kind of success that has been demonstrated in this case.

21 THE COURT: Thank you, Mr. DeVita.

22 MR. DeVITA: You're welcome, your Honor.

23 THE COURT: Anything else from the government?

24 MR. CARBONE: No, your Honor.

25 THE COURT: Mr. Mangone, do you have anything you want

FC7HMAGS

Sentence

1 to say to me before I sentence you?

2 THE DEFENDANT: Yes, your Honor. Thank you.

3 Your Honor, all of my behavior has been
4 self-inflicted. I have not tried to run away from it. I faced
5 it head on. And as a result of that, I've put my family in a
6 terrible position.

7 I had the pleasure of appearing before your Honor on
8 several instances. This is a much more difficult time for me.
9 In fact, this time is probably the first time my mother ever
10 saw me in a courtroom and probably, hopefully, the last time
11 she ever sees me in a courtroom.

12 THE COURT: Certainly in this position, Mr. Mangone.

13 THE DEFENDANT: Without a doubt, your Honor. So it's
14 not been an easy 72 months now. We've gone through many losses
15 in our family. And during that same period of time, I've tried
16 to make myself a better person; to allow my children to
17 understand that as a result of your actions, there are
18 consequences. So I'm here before you today to face those
19 consequences.

20 I'd like to apologize to the members of law
21 enforcement that are here. It's not an easy task. I saw it
22 firsthand the amount of work that they put into these cases.
23 And I know that the Assistant United States Attorney,
24 Mr. Carbone, said that these are not easy cases to make. There
25 is a lot of surreptitious activity that they're not aware of.

FC7HMAGS

Sentence

1 And I tried to do the best I could to explain to them the role
2 of public corruption. I'm not proud of what I've done, and
3 each day I do, in fact, beat myself up for my behavior.

4 I'd like to apologize to the members of my family that
5 are here. They certainly didn't deserve the terrible exposure
6 that I was responsible for. And most important, I want to
7 apologize to my son. He grew up much faster than I ever wanted
8 him to.

9 And with that, your Honor, I fall before you. Thank
10 you.

11 THE COURT: I was very sad, Mr. Mangone, when I saw
12 your name at the head of that indictment. We had had several
13 perfectly pleasurable professional encounters when I was
14 sitting up in White Plains. It grieved me to see your name at
15 the head of that indictment.

16 There are two things about this case that make me
17 physically ill. One of them is the rot in our government that
18 has been exposed by the series of prosecutions that are
19 continuing even today. The other is dirty lawyers. I take it
20 very personally when a lawyer commits crimes, especially when
21 he uses his position as a lawyer to commit crimes.

22 By the way, my father was a lawyer. My brother served
23 his country for over 20 years as a judge advocate in the Navy.
24 The young people that I train as law clerks are lawyers. Most
25 of my best friends are lawyers. And we're, all of us, trained

FC7HMAGS

Sentence

1 in the law. We, all of us, including you, took an oath to
2 uphold the law and to be fiduciaries for the law, which is the
3 only thing that stands between civilization and anarchy. And
4 for that reason, I hold lawyers to a high standard, and I'm
5 really angered when I encounter lawyers who have turned our
6 distinguished profession into a joke and who sully all of us in
7 the minds of the public.

8 You, Mr. Mangone, were a dirty lawyer for many, many
9 years. The story of your career is just a truly pathetic one.
10 You were involved as a very young lawyer in election fraud and
11 falsifying ballots. And when you were facing the possibility
12 of indictment, you went in to the grand jury, as was your right
13 under state law, and you lied. And you then testified at a
14 trial of Mr. Wedra, and you lied. And as a result of your
15 lies, you escaped any punishment for the crime that you
16 committed and you kept your law license which you richly
17 deserved to lose. And getting away with criminal behavior just
18 made it easy after that. It made you brazen. You joined a law
19 firm. You cheated your clients, one of which happened to be a
20 public entity whose officials took your bribes and paid your
21 inflated bills with taxpayer money. You hired a state
22 senator's son, and you paid him an inflated salary and allowed
23 him to represent clients even though you knew, or quickly
24 ascertained, that he was less than competent. You concealed
25 the participation of a convicted felon in a transaction in

FC7HMAGS

Sentence

1 which he was barred by law from participation. You took money
2 from attorney trust accounts and put it into your personal bank
3 account and then used it to cover your gambling debts.
4 Mr. Siano summed it up in his closing argument quite neatly.
5 You committed tax fraud, betrayed your clients, bribed public
6 officials, and cheated your own law partners. And yet you have
7 never been convicted of a crime until now. You got away with
8 quite a bit.

9 Your guideline sentence of 37 to 46 months is based,
10 in part, on the fact that you've never been convicted of a
11 crime. The fact that you've escaped conviction for your many
12 crimes puts you in Criminal History Category I alongside people
13 who are being sentenced for the first and only crime they've
14 ever committed. If ever someone deserved to be sentenced in
15 Criminal History Category VI as a career criminal, I think you
16 do because your career was to commit crimes. This is one of
17 the great flaws of the sentencing guidelines, one of the
18 reasons I, and many other judges, dislike it so. It rewards
19 people like you who have lived lives of crime but never been
20 caught, people who have gotten away with it. Your guideline
21 sentence, 37 to 46 months, actually represents a real break to
22 you in that respect, and I look upon it as such. It is both
23 technically correct and undeservedly low. It understates your
24 criminal history and would, in my estimation, require an upward
25 departure if I were sentencing you after a trial.

FC7HMAGS

Sentence

1 Now, it's true that your life of crime has been put to
2 one very good use. Because you knew all about the skeletons in
3 their closets, you were able to help the government obtain the
4 convictions of some of the most powerful men in New York state:
5 Thomas Libous; Vincent Leibel; even your great patron,
6 Nicholas Spano. You brought them down. You made the
7 government's case against the men who made you what you were.

8 You also testified at the trial of Sandy Annabi and
9 Zehy Jereis. I listened to your testimony. And although I was
10 required to accept the jury's verdict, I formed my own judgment
11 about it, and it was not an entirely favorable judgment. You
12 said things at the trial that were demonstrably false or
13 contradicted by indisputable evidence, even by records of the
14 Department of Homeland Security. The government excused this
15 as faulty recollection. I'm not so sure I accept that
16 explanation. But the fact that you testified incorrectly, to
17 put the best spin on it, did not in the end change the fact
18 that Annabi and Jereis were miscreants. They broke the law,
19 and I put Sandy Annabi in jail for six years. But as I said at
20 her sentencing, the public corruption aspect of her case was
21 the least of what she did to deserve imprisonment. It factored
22 into her sentence but only in a minor way. I put Zehy Jereis
23 in jail for four years for being your kind of political
24 operative. Zehy Jereis was not a lawyer, to the best of my
25 knowledge, and you, sir, were. In my rank ordering of the

FC7HMAGS

Sentence

1 defendants in that case, this case, my case, you were the
2 worst. You deserve the greatest punishment. Had you not
3 cooperated and been convicted after a trial, you would have
4 gotten the greatest punishment.

5 I have a lot of lovely letters from people that you
6 have been good to, principally your family, close friends, many
7 of them new friends, people who didn't know you in your old
8 life, people who know you in your new life. It is wonderful
9 that your family and your friends love you. It is good to know
10 that you are good to the people who love you. They asked me to
11 take pity on you because they believe that at heart you are a
12 good person and one who has learned his lesson. And
13 Mr. DeVita, who has done very, very well by you indeed, asked
14 me to take pity on you because of them.

15 I always look at those letters. I appreciate what
16 people said. I have to tell you, Mr. Mangone, lawyer to
17 lawyer, I'm rarely moved by them when it comes to the
18 sentencing of a defendant like yourself, especially a defendant
19 like yourself, who comes from a good family, salt-of-the-earth
20 people is how you described your parents, who did not lack for
21 anything essential in your upbringing, not for food, not for
22 shelter, not for love, not for attention. You had the
23 advantage of a fine education at excellent schools, loving
24 parents, a loving wife. Most of the defendants I see don't.
25 You can't say that about them, Mr. Mangone.

FC7HMAGS

Sentence

1 And here is why these letters rarely move me. It is
2 easy to be good to the people who love you. I would expect
3 those people to sing your praises. And when they say that you
4 are a man who is a fundamentally good man, they are speaking
5 the truth as they know it; but the truth, Mr. Mangone, as you
6 and I know, is much more complicated. The truth is that for
7 virtually your entire adult life until 2010, you were
8 fundamentally a very bad person. You did a lot of very bad
9 things. You hid that from the ones you loved. And I can't
10 look at you through their rose-colored glasses.

11 Mr. DeVita thought that this was a unique and
12 inspiring group of letters. I would be more influenced by this
13 pile of letters if it contained any missives from people who
14 are not your family and friends, who have good things to say
15 about you and especially about what you accomplished in your
16 career. While I'm sure that Mr. DeVita did his best, but the
17 defense submission is woefully short on such letters. Sitting
18 here today, I can't recall a single letter from a client who
19 wanted to tell me how he benefited from your good and faithful
20 service or from citizens or civic leaders commending anything
21 good that you accomplished for the people of Yonkers or
22 Westchester or Putnam during all those years when you were so
23 intimately involved in local politics. Sure, I probably am not
24 remembering one or two, and Mr. DeVita can correct me if I miss
25 one or two.

FC7HMAGS

Sentence

1 MR. DeVITA: Your Honor, I would mention there are two
2 letters from mothers of clients that Mr. Mangone represented
3 and speak well of his representation in a very moving fashion.

4 THE COURT: Thank you.

5 When I sentenced Ms. Annabi, the letters were unique.
6 I received dozens of letters from Sandy Annabi's constituents
7 praising her for her service to the people of Yonkers, telling
8 me about wonderful things that she had done for them, perfectly
9 legally, people who were total strangers to her but who were
10 her constituents. And that was the great tragedy of
11 Ms. Annabi's case, as I said at her sentencing, because she
12 accomplished so very much as a legislator, and her constituents
13 loved her for it. These two letters -- I read them,
14 obviously -- they're slipping my mind today. But there is no
15 chorus that's spoken up for any aspect of your career in law
16 and politics, and that speaks volumes to me.

17 Now, I did get this letter wholly unsolicited last
18 Friday from this lady, Ms. Burhans, who used to live in Putnam
19 County and who had some sort of a grievance against Putnam
20 County. That came clear from her letter, and so I asked Jim to
21 go and see if he could find any record of the case, and he did.
22 There was a case she had brought. She sued Putnam County in
23 this court and eventually reached some sort of a settlement, I
24 think in front of Judge Cote, and it probably didn't feel
25 sufficient to her. So she obviously has an ax to grind, I'll

FC7HMAGS

Sentence

1 grant you that. But, nonetheless, she was a citizen of that
2 county. And as a citizen and a taxpayer, she was the victim of
3 the criminal behavior that you and your *confederes* perpetrated
4 on that county, and the record should show what she said. She
5 said: I ask that you not be lenient. Please send a message to
6 the multitude of white-collar criminals who steal and rob the
7 public of honest government that they will be held accountable.
8 This criminal cooperated because he wanted to get off easy. He
9 and his law firm wreaked havoc in Putnam County. I find it
10 nauseating that these politically connected criminals get off
11 so easy while a poor person of color who steals less than a
12 thousand dollars gets years in prison. Corruption is so
13 pervasive in Putnam County because there is no real
14 accountability. Please have the moral courage to hold
15 white-collar criminals accountable.

16 This lady may have an ax to grind. She may have her
17 own interests here, but she expresses, more eloquently than I
18 possibly could, something of what I am feeling as I sit here
19 and look at you. I mentioned earlier that your guideline was
20 low because of your low criminal history score. The government
21 tends to make up for that by having a policy of requiring a
22 defendant to plead guilty to all the federal crimes, not state
23 crimes but federal crimes, that he reveals during his
24 cooperation. And that does tend, in certain cases, to get rid
25 of the distortion in the guidelines that I mentioned earlier.

FC7HMAGS

Sentence

1 The government imposed no such requirement on you, did not
2 require you to plead guilty to any crimes that you committed
3 with Mr. Libous or Mr. Leibell, and that conduct is also not
4 denominated as relevant conduct for guidelines purposes in the
5 sentencing memorandum. That benefits you in two ways: First,
6 it gives you a relatively low total offense level; second, it
7 does not require you to make restitution pursuant to the
8 Mandatory Victims Restitution Act to, in particular, the people
9 of Putnam County. You're getting away with that, too, and that
10 too is a substantial break from what you could be facing today.

11 Now, I appreciate that your financial circumstances
12 are spartan, but I might be more convinced of your remorse if
13 you were making some effort, out of a sense of what's proper,
14 to repay some of what you have received because of the conduct
15 that you've testified about and talked to the government about.
16 But you've made no such effort, and none is being required of
17 you. The government always requires that you pay your back
18 taxes, but apparently you haven't done that either, although
19 that obligation should, I'm afraid, come ahead of your other
20 obligations. And the people are paying the freight.

21 Mr. Mangone, as far as I can tell, you devoted
22 substantially all of your adult life until 2010 to the
23 corruption of the government and the city of Yonkers and the
24 counties of Westchester and Putnam in the state of New York.
25 You wasted the law degree that was conferred upon you when you

FC7HMAGS

Sentence

1 undermined the principles on which this country was founded,
2 principles that some of us, perhaps naively, believe should
3 undergird our government. Every month I see people who have
4 done terrible things: drug dealers, people who alter the VIN
5 numbers on cars, people who cash somebody else's Social
6 Security check, people who watch child pornography, who rob
7 banks, people who profit in the stock market from inside
8 information. I send the people who do these things to prison,
9 sometimes for a very long time. I don't think I could look
10 them in the eye, Mr. Mangone, if I did not sentence you to
11 serve time for your misdeeds, because what you did is as bad as
12 anything they did and worse than what most did. You sold out
13 your fellow citizens, and in one way or another, you took home
14 the proceeds.

15 It just doesn't seem right to me that you should get
16 off without some real punishment, even though you testified
17 against others once you, who have been described to me by
18 several people over the course of years as a very intelligent
19 man, realized that the party was finally over. And if you
20 think that is unfair, you think it somehow undercuts the deal
21 that you made with the government in exchange for your
22 testimony, let me be really clear. As you know from your plea,
23 you didn't make any deal with me. And, second, but for your
24 cooperation, I can promise you, you would be doing more time
25 than Sandy Annabi, guidelines or no guidelines. I would not

FC7HMAGS

Sentence

1 bat an eye while handing down that sentence. So you are
2 getting a break, a substantial break, from what I think you
3 deserve even for the conduct to which you pleaded guilty.

4 Please stand, please. I've reviewed the presentence
5 report. I accept and adopt as my findings its description of
6 the offense and the offense conduct. As I mentioned, the
7 guideline calculation, which is a total offense level of 19 and
8 a Criminal History Category of I, is technically correct. I
9 accept and adopt the offender characteristics set forth
10 beginning at paragraph 102 of the presentence report. I grant
11 the government's motion. There is absolutely no question that
12 Mr. Mangone satisfies the Section 5K1.1 factors. He has given
13 the government substantial, timely, and very important
14 cooperation, and for that he should and is being rewarded. But
15 I have considered all of the Section 3553(a) factors, and I
16 truly cannot see my way clear to giving this defendant a
17 non-incarcerative sentence. It seems to me that an
18 incarcerative sentence is absolutely necessary, not only to
19 punish Mr. Mangone for his admitted conduct but to send a
20 message to everyone that this kind of behavior will not be
21 tolerated. It simply will not be tolerated. And to send a
22 message to members of the bar who might be tempted to abuse
23 their position of trust, to tell them that this kind of
24 behavior will not be tolerated. I have no doubt that the
25 government will have little difficulty signing up cooperators

FC7HMAGS

Sentence

1 in the future.

2 Under docket No. 10 Criminal 007 and 10 Criminal 1170,
3 I sentence you as follows, Anthony Mangone, on Counts One, Two,
4 Five, and Six on the first docket number and Count One on the
5 second docket number, to concurrent sentences of 18 months to
6 be followed by a term of three years concurrent on each count,
7 that to run, I said, concurrently. Restitution is not
8 applicable in this case. It's not applicable because of the
9 deal that the government cut with you. That's the government's
10 position to make, but because of that, you will be required to
11 pay a fine of \$15,000, in addition to a special assessment of
12 \$100 which is due and payable immediately. Oh, \$500. I'm
13 sorry, \$500. That's \$100 on each count.

14 Mr. DeVita, do you want a recommendation?

15 MR. DeVITA: Yes, your Honor, two requests. One that
16 your Honor recommend that Mr. Mangone be assigned to an
17 institution called McKean Federal Prison Camp at McKean in
18 Pennsylvania. The reason in part being that people against
19 whom he has provided information will be at the usual more
20 local institutions, and I think he's concerned about running
21 into them. So McKean is not that far away, and I think it's
22 still in the northeast region. But that would be the request
23 that we have.

24 THE COURT: Happy to make that recommendation.

25 MR. DeVITA: The other, your Honor, is that he be

FC7HMAGS

Sentence

1 allowed to surrender directly to the institution sometime after
2 the first of the year.

3 THE COURT: No problem.

4 Mr. Mangone, when you're released, you will be placed
5 on three years' supervised release, and you will report to a
6 United States probation officer during that period on a regular
7 basis. And you will do everything the probation officer says,
8 and you may do nothing that the probation officer says you
9 cannot do.

10 You are required to abide by all of the standard
11 conditions of supervision except for the mandatory drug testing
12 condition which I am suspending based on my determination at
13 the recommendation of probation that the defendant poses a low
14 risk of future substance abuse.

15 Here are the rules Mr. Mangone. You can't commit
16 another crime, federal, state, or local. You cannot illegally
17 possess any controlled substance. You shall not possess a
18 firearm or any sort of destructive device. You are required to
19 give a DNA sample for inclusion in criminal databases. You are
20 required to obtain and maintain legitimate and verifiable
21 employment. I hope the restaurant will still be open and you
22 can go back there. You cannot associate with people who have
23 been convicted of crimes, which include a whole lot of your
24 former associates, or be found in places where criminal
25 activity is being planned or carried out. You have to keep

FC7HMAGS

Sentence

1 your probation officer apprised of your home and work
2 addresses, and you cannot change either without ten days'
3 advance notice to the probation department. If there is an
4 emergency that requires you to vacate premises, you have 48
5 hours to notify your probation officer where you can be found.

6 As a special condition of your supervision, you are
7 required to provide your probation officer with access to any
8 requested financial information. And you are required as a
9 condition of your supervision to pay both your taxes and the
10 fine that I am imposing upon you. The fine and the special
11 assessment are due and payable immediately; but as I believe
12 you cannot pay them, they will be deducted from your prison
13 wages at the rate of \$25 per calendar quarter or 50 percent of
14 your gross money earnings if you are in a UNICOR grade four
15 program and, when you get out, at the rate of 15 percent of
16 your gross, that is pretax, monthly earnings. The tax payments
17 are your responsibility. They're not included in that. That
18 applies to the fine and the special assessment.

19 Anthony Mangone, you have the right to take an appeal
20 from this sentence that I have imposed upon you and the right
21 to counsel in connection with any appeal you would choose to
22 file. If you cannot afford a lawyer, one will be appointed to
23 represent you without cost.

24 Do you understand?

25 THE DEFENDANT: Yes, your Honor.

FC7HMAGS

Sentence

1 THE COURT: You may be seated.

2 Mr. DeVita, is there anything else that we need to do?

3 MR. DeVITA: No, your Honor.

4 THE COURT: Mr. Carbone, anything from the government?

5 MR. CARBONE: Yes, your Honor. We need to dismiss
6 Count Thirteen of indictment 10 CR 007.

7 THE COURT: That count is dismissed as against
8 Mr. Mangone.

9 Mr. O'Neal suggests March 7 as a date for surrender.

10 MR. DeVITA: That's fine, your Honor.

11 THE COURT: Mr. DeVita will be notified, Mr. Mangone,
12 of your placement. I will recommend the camp at McKean,
13 Pennsylvania. I will also recommend, more generally,
14 Mr. Mangone should be in a minimum security facility and that
15 there is a strong preference for the Northeastern United States
16 so as to facilitate visitation by the family.

17 MR. DeVITA: Thank you, your Honor.

18 THE COURT: These proceedings are closed.

19 (Adjourned)
20
21
22
23
24
25